

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 292 of 1985

Date of decision: 20-6-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAJABHAI SAMJIBHAI SURANI

Versus

STATE OF GUJARAT  
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Appearance:

None present for Petitioner

Ms. P.S. Parmar for Respondent No. 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/06/97

## ORAL JUDGEMENT

The matter was called out for hearing in the first round, second round and lastly in the third round. None appeared on behalf of the petitioner.

Heard the learned counsel for the respondent, and perused the special civil application.

The petitioner, an officer of the Panchayat Department of the Government of Gujarat, has filed this special civil application challenging the order dated 17th January, 1985 of the Development Commissioner respondent No.2 herein, whereunder 31 persons were promoted as Taluka Development Officer in different districts. The petitioner's grievance is that many of those persons who have been promoted are junior to him and he has been superseded in the matter of promotion.

2. The petitioner's grievance is that persons at serial No.8 to 31 in the said order are junior to him. The petitioner made prayer for issuance of writ of mandamus or any other writ, order or direction quashing and setting aside the order dated 17-1-1985. Further prayer has been made for interim relief to be granted. None of the persons who are junior to the petitioner and given promotion under the impugned order has been impleaded as party. The relief as prayed for by the petitioner in this writ petition cannot be granted in absence of those persons who have been promoted under the order. Persons named at serial No.8 to 31 in the impugned order were necessary party to this special civil application. Challenge to the order of promotion of those persons without impleading and serving them is not maintainable. There is yet another ground on which this writ petition deserves to be dismissed. The petitioner has a right of consideration for promotion and not a right of promotion. In the reply to the special civil application, the respondents have come up with the case that the petitioner's case has been considered for promotion by the Departmental Promotion Committee in its meeting held on 5-9-1984 and 15-12-1984. However, he has not been selected by the Committee on the basis of the overall assessment of his confidential reports. The respondents have come up with the case that there were adverse remarks in the annual performance record of the petitioner for the year 1979-80 to 1983-84. So it is not the case where the case of the petitioner was not considered for promotion. Because of the adverse service record he was not given promotion.

3. In the result this special civil application fails and the same is dismissed. Rule discharged. Interim relief granted earlier stands vacated.

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